

Exhibit 172

UNITED STATES DISTRICT COURT

for the
District of ColumbiaUnited States of America
v.AYAD FATAFTA,
a/k/a AYAD FATAFTHAH
a/k/a IYAD FATAFTHAH
a/k/a AYAD FATAFTA HUSSEIN

and

KIFAH GHANIMAT
a/k/a KIFAH GHANIMAT MAHMUD
a/k/a KIFAH GHNEIMAT

Defendant(s)Case No. 1:17-mj-229
Assigned to: Magistrate Judge Deborah A. Robinson
Date Assigned: 04/13/2017
Description: Complaint and Arrest Warrant

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief. On or about the date(s) of December 18, 2010, in the State of Israel and, therefore, outside of the jurisdiction of any particular state or district of the United States, but within the extraterritorial jurisdiction of the United States and, pursuant to Title 18, United States Code, Section 3238, within the venue of the United States District Court for the District of Columbia, the defendants violated:

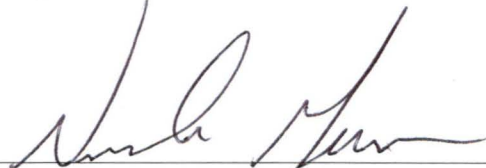
*Code Section**Offense Description*

18 U.S.C. §§ 2332(a)(1) and 2

- Murder of a United States National Outside the United States and Aiding and Abetting and Causing an Act to be Done.

This criminal complaint is based on these facts:

See attached Affidavit in Support of a Criminal Complaint and Arrest Warrant

☐ Continued on the attached sheet.

Complainant's signature

Special Agent Nicole Mercer

Printed name and title

Sworn to before me and signed in my presence.

Date:

APR 13 2017



Judge's signature

City and state:

Washington, D.C.

Magistrate Judge Deborah A. Robinson

Printed name and title

Case No. 1:17-mj-229

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Date Assigned: 04/13/2017

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**AFFIDAVIT IN SUPPORT OF AN
ARREST WARRANT AND A CRIMINAL COMPLAINT**

I, Nicole Mercer, being duly sworn, state as follows:

AFFIANT BACKGROUND

1. I am a Special Agent with the Federal Bureau of Investigation ("FBI") and have served in this capacity since 2011. I am currently assigned to the FBI's Washington Field Office ("WFO"), where I investigate crimes related to international terrorism.

2. As a Special Agent, I am authorized to investigate violations of the laws of the United States of America. I am a sworn law enforcement officer with authority to execute arrest and search warrants issued under the authority of the United States of America.

3. This Affidavit is submitted in support of arrest warrants and criminal complaints charging Ayad Fatafta ("Fatafta") and Kifah Ghanimat ("Ghanimat") with Murder of a United States National Outside the United States and Aiding and Abetting and Causing an Act to be Done, in violation of Title 18, United States Code, Sections 2332(a)(1) and 2. I respectfully submit that there is probable cause to believe that on or about December 18, 2010, in Israel, Fatafta and Ghanimat, with malice aforethought, killed Kristine Luken ("Luken"), a national of the United States, in violation of Title 18, United States Code, Sections 2332(a)(1) and 2.

4. The statements contained in this Affidavit are based on reviews of documents, translations of documents, information provided to me by United States and foreign law enforcement officials, witness interviews, and my own observations. This Affidavit is submitted for the limited purpose of supporting criminal complaints and to

request that arrest warrants be issued, and does not include every fact known to me concerning this matter.

FACTS SUPPORTING PROBABLE CAUSE

I. The December 18, 2010, Abduction and Murder

5. On or about December 18, 2010, Luken was a United States national visiting Israel as a tourist. On that date, Luken was accompanied by W1, an adult female who was a dual citizen of Israel and the United Kingdom, and who was working in Israel as a tour guide. Ghanimat and Fatafta were adult males living in areas controlled by the Palestinian Authority.

6. On or about December 18, 2010, Luken and W1 toured portions of Israel together. They visited a city called Beit Shemesh, participated in a wine tasting at an Israeli winery, and went hiking around an archaeological site near Jerusalem.

7. While the women were hiking, W1 noticed two Palestinian men crouching in the thicket nearby. One of the Palestinian men asked for water in Hebrew, and W1 responded, also in Hebrew, and indicated that she did not have any water.

8. W1 sensed that the men posed a potential danger, and she removed a small penknife from her backpack, opened the blade, and held it in her hand.

9. W1 heard Luken scream from behind her. Before W1 could turn around, she was thrown to the ground by the weight of a man trying to pin her down. W1 thrust the penknife towards her attacker, and perceived that she had stabbed him in the upper leg. W1's attacker seized the penknife from her, and revealed his own knife, which W1 believed was a serrated butcher's knife around 30 centimeters long. W1 ceased her

struggling. She looked around and noticed that Luken was being held by another man, and that the other man was also holding a knife.

10. W1 noticed that her attacker spoke to the women in Hebrew, and spoke to the other man (Luken's attacker) in Arabic. W1 observed that her attacker gave orders to Luken's attacker and appeared to be the leader of the two men.

11. W1's attacker searched her pockets and pulled out a cellphone, which he placed into his own pocket. W1's attacker also took W1's backpack and rummaged through it, seizing a number of items including a purse, paper currency, a driver's license, a credit card, car keys, W1's Israeli identity card, and Luken's United States passport. W1 observed that her attacker smirked when he noticed the Israeli identity card. W1 also noticed that her attacker seemed confused by Luken's United States passport. Luken responded by telling the man to take the passport and that she was a United States citizen.

12. The men pushed the women further away from the hiking trail and deeper into the forest. W1's attacker instructed W1 to remove her shoes and laces, and he used the laces to tie each of the women's hands behind their backs. One of the men seized Luken's fleece jacket, and ripped it into pieces. W1's attacker put the pieces of the fleece jacket into or over the mouth of each of the women.

13. As the two women stood side by side, W1's attacker noticed that W1 was wearing a necklace with a Star of David ornament, a well-known Jewish symbol. W1 noticed her attacker smirk as he removed the Star of David necklace.

14. The men separated the women, and each of the women was stabbed numerous times.

15. W1 played dead, and eventually her attacker ceased the stabbing and the two men seemed to have walked away. The men returned, however, and each of the women was stabbed again. The men departed while W1 faded in and out of consciousness.

16. W1 eventually got up and – still bound, gagged, and bleeding heavily from numerous stab wounds – stumbled barefoot for hundreds of meters towards a road where people rendered aid. W1 was hospitalized and treated for numerous stab wounds to the chest and body that caused serious injuries including broken ribs and lacerations to internal organs. Luken died at the scene of the crime; an autopsy later revealed that she died from severe damage to her vital organs from approximately a dozen stab wounds to the chest.

II. Evidence That Ghanimat and Fatafta Were The Perpetrators

17. Based on an investigation of these crimes, Israeli authorities identified Fatafta's DNA on several items of evidence recovered after the abduction and assault. These items included W1's fleece jacket, a shoelace, the Star of David necklace, on Luken's body, and on the handle of a knife found nearby.

18. Fatafta was arrested by Israeli authorities on or around December 21, 2010. At the time of his arrest, Fatafta had a wound in the palm of his hand that required stitches. Fatafta initially denied to Israeli authorities that he had any knowledge about Luken's murder. On or around December 23, 2010, however, Fatafta confessed to his participation in the crime. Fatafta told Israeli authorities that he and Ghanimat went to Israel a few days earlier in order to steal a car or other items, and that they encountered the two women in the forest. Fatafta stated that he asked the women in Hebrew whether

they had any water, and that one of the women replied that they did not. Fatafta stated that he and Ghanimat knocked the women down in order to steal their bag, and that the woman he attacked (the same one who had answered him regarding the water) stabbed him in the hand with a small knife. Fatafta explained that he and Ghanimat took belongings from the women, and that they tied the women up so that the men could run away before the women released themselves. Fatafta stated that he and Ghanimat stabbed the women because they realized that the women had seen their faces, and that consequently the military would be able to arrest them. Fatafta stated that he stabbed the woman who had initially responded to him regarding the water, first in the stomach and then a few times in the back. Fatafta stated that Ghanimat stabbed the other woman. Fatafta stated that he gave his knife to Ghanimat as the men ran away, and that they threw the knives and other items away during their escape.

19. Ghanimat was also arrested on or around December 21, 2010, and he confessed to his participation in the crime on or around December 23, 2010. Ghanimat told Israeli authorities that he and Fatafta brought knives to Israel a few days earlier, and that Fatafta told him that they were going to kill every Jewish person that they met. Ghanimat stated that they came across two women in the forest and that Fatafta spoke to the women in Hebrew and asked the women for water. Ghanimat stated that Fatafta tied the women up with their shoelaces, covered the women's eyes with their shirts, and told Ghanimat, "You kill one and I kill one and then we continue." Ghanimat stated that Fatafta stabbed both of the women during the assault, but that Ghanimat only stabbed one of the women (the woman who did not speak to them in Hebrew). At a court hearing in

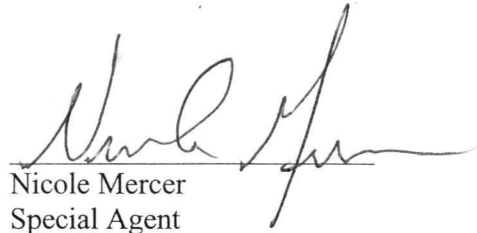
January of 2012, however, Ghanimat denied knowing or remembering anything about this incident.

20. On or around December 23, 2010, Ghanimat and Fatafta both went with Israeli authorities to the scene of the crime and each participated in a reenactment of the abduction and assault. During the reenactment, Ghanimat explained that the men threw away in the forest the property they had taken from the women. Ghanimat also participated in a search for the discarded property and, with his guidance, Israeli authorities located and seized several items of evidence including a bag, identification documents, Luken's U.S. passport, a cell phone, and two knives.

21. In 2012, Ghanimat and Fatafta were both convicted in an Israeli court of murder and other offenses in connection with the abduction and stabbing of Luken and W1. Ghanimat was sentenced to two lifetime terms of incarceration plus 60 years, and Fatafta was sentenced to one lifetime term of incarceration plus 20 years.

CONCLUSION

22. Based on the facts set forth above, I respectfully submit that there is probable cause to believe that Kifah Ghanimat and Ayad Fatafta each committed the crime of Murder of a United States National Outside the United States and Aiding and Abetting and Causing an act to be Done, in violation of Title 18, United States Code, Section 2332(a)(1) and 2.



Nicole Mercer
Special Agent
Federal Bureau of Investigation

Sworn to and subscribed before me this 13th day of April, 2017.



United States Magistrate Judge
District of Columbia